

MEMO ENDORSED

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July 1, 2008

Via Facsimile (212) 805-6326

Honorable Colleen McMahon
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007-1312

RE: Arista Records LLC, et al. v. Does 1 - 33
Civil Action No. 08-cv-03048 (CM)

Dear Judge McMahon:

Plaintiffs respectfully request that the Court continue the initial pretrial conference that was set for July 1, 2008. As further explained below, Plaintiffs have not yet discovered the identities of the Doe defendants in this case, and cannot move this case forward until they do so. At this juncture in the case, a pretrial conference is premature. In support of their request, Plaintiffs state as follows:

- 1) The initial pretrial conference was set for July 1, 2008. Due to a ongoing trial, in another matter, this conference is in the process of being rescheduled. The current deadline for service of process is July 24, 2008.
- 2) Plaintiffs filed their Complaint for Copyright Infringement against Defendant John Does ("Defendants") on March 26, 2008. Plaintiffs did not have sufficient identifying information to name Defendants in the Complaint, but were able to identify Defendants by the Internet Protocol address assigned by Defendant's Internet Service Provider ("ISP"). Accordingly, in order to determine Defendants' true name and identity, Plaintiffs filed their *Ex Parte* Application for Leave to Take Immediate Discovery on March 26, 2008, requesting that the Court enter an Order allowing Plaintiffs to serve a Rule 45 subpoena on the ISP.
- 3) The Court entered an Order for Leave to take Immediate Discovery on March 26, 2008. This Order, along with a Rule 45 subpoena, was presumed served on ISP on May 7, 2008. Plaintiffs expected the ISP to



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July 2, 2008

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respond to the subpoena on June 6, 2008. On June 17, 2008, Plaintiffs contacted the ISP to inquire about the overdue subpoena response and were informed by the ISP that they were never served with this Order or the subpoena. Plaintiffs have since reissued the subpoena using a different process server and have confirmed service on June 20, 2008. Plaintiffs expect the ISP to respond on July 20, 2008.

Given the foregoing circumstances, and because Plaintiffs will not learn Defendants' identities until after the date of the currently scheduled initial pretrial conference, Plaintiffs respectfully request that the initial pretrial conference be continued to August 14, 2008, or such other date as conveniences the Court. Furthermore, Plaintiffs respectfully request that the service deadline be extended by 90 days, in order for the Plaintiffs to learn the identities of the Defendants and execute proper service on them.

Sincerely,

Victor B. Kao/ccl

Victor B. Kao

VBK/ccl